

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of VANESSA LYNN HENRY,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

PAMELA SUE HENRY,

Respondent-Appellant,

and

JERRY MARTIN,

Respondent.

UNPUBLISHED

August 4, 2005

No. 258869

Macomb Circuit Court

Family Division

LC No. 02-052794-NA

Before: Zahra, P.J., and Gage and Murray, JJ.

PER CURIAM.

Respondent-appellant appeals as of right from the trial court's order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g) and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court did not clearly err in finding that the statutory grounds for termination had been established by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). To be clearly erroneous, the decision must be "more than just maybe or probably wrong . . ." *Id.* at 356. The child was removed from respondent-appellant's care because of a lack of housing and financial support. The evidence showed that respondent-appellant, being unable to support herself and her child, had a lengthy history of frequently moving and residing with friends and/or relatives. After assuming temporary jurisdiction over the child, the court ordered that respondent-appellant comply with her parent/agency agreement, which, in pertinent part, required her to obtain and maintain suitable housing and consistent employment. At the time of the termination trial, respondent-appellant was employed and was residing with a friend, but planned to begin residing with her mother upon the return of the child.

Although respondent-appellant correctly contends that she complied with many terms of her parent/agency agreement, the suitability of her proposed housing situation (moving in again

with her mother) remained problematic given respondent-appellant's history of repeatedly moving in and out of her mother's home. Specifically, before the child's removal, respondent-appellant moved in with her mother and subsequently left the home on four occasions; most notably, during the proceedings when the child was placed in respondent-appellant's care, she moved out of her mother's home again with the child following an argument with her mother, which prompted respondent-appellant to move in with a friend and the child's return to her paternal grandmother. Given this lack of stability or permanency in respondent-appellant's housing situation over a period of more than two years, the trial court did not clearly err in concluding that respondent-appellant was unable to provide the child with a stable home.

The testimony also showed that respondent-appellant was unable to maintain consistent employment throughout the proceedings. Although respondent-appellant held several jobs for short durations throughout the proceedings and was employed at the time of the termination trial, she remained unemployed for a substantial part of the proceedings.

Given the continued instability of respondent-appellant's housing situation and her inability to maintain consistent employment to support the child throughout the proceedings, we find no clear error in the trial court's finding that she failed to rectify the primary conditions that led to the adjudication of the child and there was no reasonable likelihood that she would be able to do so within a reasonable time. MCL 712A.19b(3)(c)(i). Admittedly, this is a somewhat difficult case, in light of the many improvements made by respondent and the obvious bond between her and the child. But as the *Trejo* Court made clear, a decision is not clearly erroneous if in our view it only could be wrong. *Trejo, supra* at 355. Accordingly, termination of her parental rights was appropriate under subsection (c)(i). Likewise, we hold that the trial court did not clearly err in finding that the same evidence justified termination under subsections (g) and (j). We note that additional testimony indicated that respondent-appellant neglected her parental responsibilities when the child was temporarily placed in her care during the proceedings, which further suggested that she would be unlikely to properly parent the child. Specifically, the testimony indicated that she failed to come home at night, she left the responsibility of the child's care with her parents and her sisters and the child missed numerous days of school and was tardy numerous times.

Finally, we find that the evidence did not establish that termination of respondent-appellant's parental rights was clearly not in the child's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 356-357. Although the evidence showed that there was a bond between respondent-appellant and her child, given her history of failing to make the necessary changes to regain custody of the child we cannot conclude that the court clearly erred in terminating her parental rights instead of delaying permanency for the child. *Id.*

Affirmed.

/s/ Brian K. Zahra
/s/ Hilda R. Gage
/s/ Christopher M. Murray